

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANKIE WEISNER,

No. 2:23-cv-0662 DAD AC P

Petitioner,

v.

ORDER

KATHLEEN ALLISON,

Respondent.

Petitioner, a state prisoner proceeding pro se and in forma pauperis, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 23, 2023, respondent filed a motion to dismiss the petition. ECF No. 14. Petitioner has not opposed respondent's motion, though he has filed a motion for default judgment and motions for unconditional release. ECF Nos. 16-18. In his motion for default judgment, petitioner states that respondent has yet to answer the petition, as ordered by the court. ECF No. 16.

Upon screening of the petition, the court ordered respondent to respond to the petition by filing either an answer or a motion. ECF No. 7. Respondent filed a motion to dismiss (ECF No. 14) and therefore has complied with the court's order. Petitioner's motions for default and unconditional release will therefore be denied and petitioner will be given one more opportunity to respond to the motion to dismiss.

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1 Good cause appearing, IT IS HEREBY ORDERED that:

2 1. Petitioner's motion for default judgment (ECF No. 16) is DENIED;

3 2. Petitioner's motions for unconditional release (ECF Nos. 17, 18) are DENIED; and

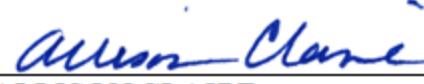
4 3. Within twenty-one days after the filing date of this order, petitioner shall file and serve

5 an opposition or statement of opposition to the pending motion to dismiss. Failure to comply

6 with this order will result in the dismissal without prejudice of this action for failure to prosecute

7 pursuant to Federal Rule of Civil Procedure 41(b).

8 DATED: November 28, 2023

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10 ALLISON CLAIRE
11 UNITED STATES MAGISTRATE JUDGE

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